



December 19, 2022

Ms. Julia Hegarty
U.S. Department of Energy
Office of Energy Efficiency and Renewable Energy
Building Technologies Office, EE-5B
1000 Independence Avenue SW
Washington, DC 20585-0121

Submission via [regulations.gov](https://www.regulations.gov)

Re: The Office of Energy Efficiency and Renewable Energy's Notification of Data Availability and Request for Comment Pertaining to Energy Conservation Standards for Miscellaneous Gas Products [Docket Number EERE-2022-BT-STD-0017]

Dear Ms. Hegarty:

The American Gas Association ("AGA") and the American Public Gas Association ("APGA") (collectively, "Commenters") appreciate the opportunity to provide comments in response to the Department of Energy's ("DOE") notification of data availability ("NODA") in the above referenced proceeding. Unfortunately, due to the limited length of the comment period, paired with other compounding factors such as federal holidays, Commenters have not had sufficient time to develop meaningful comments in response to the miscellaneous gas products ("MGP") NODA.

AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 77 million residential, commercial, and industrial natural gas customers in the U.S., of which 95 percent — more than 73 million customers — receive their gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international natural gas companies, and industry associates. Today, natural gas meets more than one-third of the United States' energy needs.¹

APGA is the trade association for more than 730 communities across the U.S. that own and operate their retail natural gas distribution entities. They include not-for-profit gas distribution systems owned by municipalities and other local government entities, all locally accountable to the citizens they serve. Public gas systems focus on providing safe, reliable, and affordable energy to their customers and support their communities by delivering fuel to be used for cooking, clothes drying, and space and water heating, as well as for various commercial and industrial applications.²

¹ For more information, please visit www.aga.org.

² For more information, please visit www.apga.org.

Commenters provide the energy needed to fuel MGP, thus making them critical stakeholders in this work. Unfortunately, DOE has not provided sufficient time for Commenters to review and develop meaningful comments in response to the NODA.

Insufficient Time to Comment

DOE chose to deviate from its own procedures by only granting a 30-day comment period. “Section 6(d)(2) of appendix A specifies that the length of the public comment period for pre-NOPR rulemaking documents will not be less than 75 calendar days.” In the NODA, DOE rationalizes that such a deviation is appropriate because of the previous 30-day comment period it set for a request for information (“RFI”) it issued earlier this year in the same docket.

Commenters feel that this is an insufficient reason for DOE to deviate from its own procedures, as Commenters, as well as others, requested an extension of the comment period in the RFI proceeding, which DOE denied without a formal response to the Commenters. Furthermore, Commenters have requested additional time to comment at every step of the MGP rulemaking – the notice of proposed determination (“NOPD”),³ the RFI,⁴ and this NODA⁵ – all of which have been denied without any response from DOE explaining its reasoning.

The public comment period for the NODA also encompasses a federal holiday, in addition to the beginning of the winter holiday season, meaning that many of our members have been absent due to the holidays or other time away from work. This has made it difficult to consult with them to develop meaningful comments in response to this NODA. This challenge is paired with the fact that our members’ organizations continue to face significant supply chain and worker shortages that pose further obstacles to giving these important documents the critical review and feedback that are required.

Comments in Response to NODA

Commenters wish to reiterate the concerns we submitted in response to the RFI, which are incorporated by reference.⁶ Of note, Commenters still assert that minimum efficiency standards for the products listed in the RFI are neither “necessary” nor “appropriate” within the meaning of 42 U.S.C. Section 6292(b)(1)(A), as there is no reasonable potential that efficiency standards for these products would provide significant energy savings or be economically justified. Furthermore, if DOE does find that it is necessary and appropriate to propose minimum efficiency standards for MGP, it is important that the agency implement the recommendations from the recent National Academies of Sciences, Engineering, and Medicine (“NASEM report”)⁷ into all steps of its rulemakings, whether for test procedures or energy conservation standards.

³ See, e.g., letter from APGA to DOE requesting an extension to the comment period for the NOPD (Mar. 29, 2022).

⁴ Letter from AGA, APGA, et. al to DOE requesting an extension to the comment period for the RFI (Jul. 1, 2022).

⁵ Letter from AGA, APGA, et. al to DOE requesting an extension to the comment period for the NODA (Dec. 6, 2022).

⁶ Comment letter from AGA, APGA, et. al to DOE in response to the MGP RFI (Jul. 14, 2022), available at <https://www.regulations.gov/comment/EERE-2022-BT-STD-0017-0008> (incorporated by reference).

⁷ *Review of Methods Used by the U.S. Department of Energy in Setting Appliance and Equipment Standards*, NASEM (2021), available at <https://www.nap.edu/read/25992/chapter/1>.

As done in response to the NOPD and RFI, Commenters again wish to support and reiterate the concerns raised by the Hearth, Patio, and Barbeque Association (“HPBA”). Of note, Commenters agree that a ban on continuous pilot lights would result in the unavailability of products with performance characteristics and features value by consumers, nor could such a ban be reasonably expected to produce net life-cycle cost savings. As HPBA discusses in more detail, the ability to operate MGP when the power goes out would be lost with a ban on continuous pilot lights, nullifying an important feature of the products that are valued by consumers. Furthermore, even with the lack of data on MGP pilot light use patterns, banning continuously burning pilot lights would not be expected to produce net life-cycle cost savings, as DOE greatly underestimated MGP maintenance and repair costs, among other things.

Additionally, Commenters want to specifically reiterate HPBA’s position that gas lights should not be part of the NODA’s analysis and, accordingly, no definition for these products is required. Gas lights are not covered products and were not mentioned in the MGP final coverage determination, so there is no basis for gas lights to be treated as “covered products.” Similarly, MGP cannot be utilized as a catch-all for gas-fired products that have not been explicitly listed in statute or a final determination, as that would be contrary to EPCA’s statutory scheme.

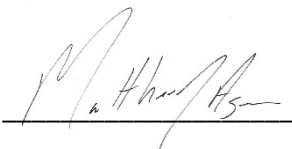
Request for Public Meeting

Finally, Commenters again request that DOE hold a public meeting to further discuss the issues raised in this NODA, the RFI, and NOPD. As with requests for extension, Commenters have requested that DOE hold a public meeting at every step of this process. Unfortunately, DOE has denied this request through non-responsiveness each time. Because a public meeting will help the agency constructively and efficiently provide clarity on its proposed actions with respect to these products and address any stakeholder concerns, Commenters again urge DOE to schedule one in the new year.

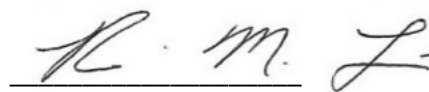
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We thank you for the review and consideration of these comments. If you have any questions regarding this submission, please do not hesitate to contact us.

Respectfully submitted,



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Cc: Mr. Pete Cochran (US DOE, Office of the General Counsel)